THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16400 of 1998

Dated : 13.08.2007

Between:

Pothana Vignana Peetam, Pothana Nagar,
Warangal, rep., by its SecretaryG.S.Madhava Rao.

..... PETITIONER

And:

The Warangal Municipal Corporation,
Warangal, rep., by its Commisioner.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16400 of 1998

ORDER:

Petitioner is a society registered under the A.P (Telangana Area) Public Societies Registration Act 1350 Fasli under certificate of registration dated 24.10.1987. It was constituted to perpetuate the memory of the great sage Telugu Poet Bammera Pothana Matya and his contribution to Telugu literature and aesthetic values in general and to propogate and promote the Bhagavatha cult philosophy and devotion and devotional literature, which has an inspiring influence on all the Telugu knowing people. For developing the activities of the petitioner, in January 1988, the Managing Committee of the petitioner requested the Warangal Municipality to allot five acres of land for construction of

cultural complex, and the Warangal Municipality submitted its proposal to the Government. Accordingly, the Government issued G.O.Ms.No.263 M.A. dated 30.04.1988 permitting the Municipal Council, Warangal, to alienate five acres of Municipal land by the side of open air theatre at Warangal free of cost to the petitioner on condition that the said land should be retransferred to the Municipal Council if the committee fails to construct the Memorial Hall within a period of five years from the date of handing over the land by the Municipal Council, Warangal. Thereafter, by proceedings dated 05.12.1990 petitioner was handed over possession of an extent of 6,630 square yards of open land in sy.No.745 of Hanumakonda subject to the conditions stipulated in G.O.Ms.No.263. Immediately thereafter, petitioner began constructions of the complex i.e, three rooms each admeasuring 625 square feet, stilt area of about 700 square feet , auditorium admeasuring about 4320 square feet and a green room admeasuring about 480 square feet. Later, at the request of the petitioner the Municipality handed over an extent of 7,970 square yards of land to the petitioner in April, 1993. Thus only an extent of three acres hundred square yards of land was handed over to the petitioner.

As the petitioner is a voluntary organization, in order to augment its resources, it allowed the Government Vidyaranya Music and Dance College to occupy the entire cellar portion and one room in the ground floor on a monthly rent of about Rs.10,000/-, by obtaining permission from the authorities concerned. In that view of the matter, the Government of A.P., Cultural Affairs Department has provided grant of Rs.2 lakhs to the petitioner for developmental activities.

Be that as it may, petitioner sought permission of the Commissioner, Warangal Municipality to accord permission to raise compound wall, however, it was rejected by letter dated 27.01.1998 and the land admeasuring 7.970 square yards has been ordered to be returned back to the Municipal Corporation alleging that petitioner constructed the building in one part and let out to a third party and no

construction was taken up in another part and as such it has violated the conditions specified in G.O.Ms.No.263. Petitioner submitted its representation on 03.03.1998, but without considering the same, the respondent issued the impugned proceedings dated 08.04.1998 directing the petitioner to hand over the area of 7,970 square yards within seven days on receipt of the said proceedings. Aggrieved thereby, this writ petition is filed.

In the counter it is reiterated by the respondent that the petitioner has not made constructions within a period of five years as per the terms of G.O.Ms.No.263 and the cellar portion is leased out unauthorisedly. It is further stated that as the petitioner did not complete the constructions within a period of five years, the impugned proceedings were issued to handover the area on which no constructions are made.

Heard Sri Anand, learned counsel for the petitioner and the learned Standing Counsel for Warangal Municipality, Sri Durga Nageswar Rao.

It is true that at the time of issuing the Government Order No. 263 allotting Acs.5.00 of land it was made clear that the petitioner shall complete the constructions within a period of five years. When admittedly possession was handed over only on 05.12.1990 and again in the month of April 1993, respondents shall not expect the petitioner to complete the constructions within a span of five years from the date of allotment. If at the time of issuing Government Order on 30.04.1988, possession was handed over and the petitioner did not complete the constructions as stipulated in the said Government Order, then it can definitely be said that the petitioner is at fault. For the lapses committed by the respondents in handing over possession of the land, petitioner shall not be found fault with. No doubt, the cellar portion of the auditorium was let out to the Government Vidyaranya Music and Dance College, but it was only after getting prior permission from the Government of A.P. Further, the Cultural affairs Department, as an

incentive, also provided financial assistance to a tune of Rs.2,00,000/-. The same also cannot be found fault with. It is not as if the petitioner is involved in any commercial activity. If the petitioner is involved in commercial activity, definitely Government can say that the petitioner is acting contrary to the conditions specified in the G.O.

Apart from that, an additional affidavit is filed on behalf of the petitioner wherein it is stated that the petitioner has already spent an amount of more than Rs.18 lakhs for construction of the buildings and the said constructions are made by the Roads and Buildings department with the funds made available by the members of Parliament and M.L.As., from their constituency funds. Further, it is also stated in the said additional affidavit that the petitioner is having nearly an amount of Rs.4 lakhs and some M.Ps., M.L.As., of the local constituency, NRIs, TTD Department of Cultural Affairs, Government of Andhra Pradesh and also Human Resource Department are willing to grant funds for construction of Museum and Hall. Hence, this Court is of the view that the petitioner has not committed any error warranting the said cancellation of allotment made on 30.04.1988.

In the light of the said discussion, this Court is of the view that the impugned proceedings dated 08.04.1998 cancelling the allotment and ordering resumption of land is bad and the said proceedings are hereby quashed. The respondents are hereby directed to handover possession of the land to the petitioner forthwith, enabling it to complete the constructions.

At this juncture, learned counsel for the petitioner submitted that it takes some time for the petitioner to raise funds and to receive contributions from various organizations and hence it takes about three years for completion of the constructions.

As already the matter is delayed for some reason or the other and the allotment was made as early as in the year 1988 for a noble cause,

but it did not happen, the petitioner is hereby directed to complete the constructions within a period of eighteen (18) months from today.

Subject to the above directions, the writ petition is allowed. There shall be no order as to costs.

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sh 13.08.2007